IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Income Tax Appeal No. 82 of 1999

The Commissioner of Income Tax, Mumbai .. Appellant
V/s.
M/s. Billimoria Constructions
Ltd., Mumbai .. Respondent

Mr. A.S. Rao for the Appellant
Mr. F.V. Irani with Mr. P.C. Tripathi for the Respondent

CORAM : S. RADHAKRISHNAN &
J.H. BHATIA, JJ.
DATED : 12.07.2005.

P.C.:-

1. Heard the learned counsel for the Appellant and the Respondent. In the above Appeal, the following substantial question of law has been sought to be raised:-

> Whether on the facts and in the circumstances of the case, the Tribunal was justified in allowing the claim of the assessee under section 32 AB of the IT Act, 1961?

2. Perused the order passed by the Tribunal dated 27.11.1998 pertaining to the assessment year 1990-1991, wherein the Tribunal has categorically referred to the earlier orders of the Tribunal for the assessment year 1989-1990, wherein the Tribunal has held in favour of the assessee. The said order, appears that, has not been challenged by the Appellant. Shri Rao, the learned counsel for the Department is unable to point out whether the Department has at all challenged the same till today.

3. We have perused the entire order of the Tribunal dated 31.7.1998 for the assessment year 1989-90, wherein for the same reasons as for the earlier years, the issue is held to be covered in favour of the assessee. The order passed by the Tribunal has not been challenged by the Appellant and the Tribunal has held in favour of the assessee. Under these circumstances, we do not find any substantial question of law involved in the above. Appeal stands dismissed.

(S. RADHAKRISHNAN, J.)

(J.H. BHATIA, J.)